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2 United States Attorney
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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13 UNITED STATES OF AMERICA,)
14)

15 Plaintiff,)

16 v.)

17 NORTH COAST FISHERIES, INC.,)
18 MICHAEL LUCAS, and)
19 PETER POMILIA,)

20 Defendants.)
21

No.

VIOLATIONS: 18 U.S.C. § 371 –
Conspiracy; 18 U.S.C. § 1001(a)(3) –
False Writing; 18 U.S.C. § 2 – Aiding
and Abetting

SAN FRANCISCO VENUE

22 INDICTMENT

23 The Grand Jury charges:

24 COUNT ONE: (18 U.S.C. § 371– Conspiracy)

25 Introductory Allegations

26 1. At all times relevant to this Indictment:

27 a. Defendant NORTH COAST FISHERIES INC. (“NORTH COAST”)
28 was a State-licensed commercial fish receiver, receiving federally-regulated groundfish

INDICTMENT

1 from fishermen, and thus subject to regulations under Title 16 of the United States Code
2 and Title 50 of the Code of Federal Regulations.

3 b. Defendant MICHAEL LUCAS ("LUCAS") was the President of
4 NORTH COAST and Defendant PETER POMILIA ("POMILIA") was an employee and
5 supervisor of NORTH COAST.

6 2. NORTH COAST's principal business office was in Santa Rosa, California.
7 It had offloading stations located in Bodega Bay and San Francisco, and received various
8 species of fish known as groundfish including bocaccio rockfish, widow rockfish,
9 sablefish (also known as black cod), ling cod, chilipepper, yellowtail, dover sole, canary
10 rockfish, rose rockfish, english sole, petrale sole, shortspine thornyhead, and longspine
11 thornyhead.

12 3. California state law requires that all receivers of groundfish, such as
13 NORTH COAST, must fill out Fish Landing Receipts ("FLRs") to report all landings of
14 groundfish received within the state at the time they purchase or receive the fish. A copy
15 of the FLR is required to be delivered to the commercial fisherman at the time of the
16 purchase or receipt of the fish. The fish receiver must submit the original FLR to the
17 California Department of Fish & Game ("Fish & Game").

18 4. Federal regulations prohibit the falsification of, or failure to make or file,
19 FLRs for species of groundfish managed by the Pacific Coast Groundfish Fisheries
20 Management Plan, the plan created to manage the groundfish off the coast of California,
21 Washington, and Oregon.

22 5. State and federal law require that FLRs contain the following: (1) the
23 weight of each species of groundfish received; (2) the name of the fisherman; (3) the
24 registration number of the boat; (4) the name of the recipient; (5) the date of receipt; (6)
25 the price paid; (7) the origin block number where groundfish were caught; (8) the type of
26 gear used; and (9) any other information prescribed by the department.

27 6. Fish & Game forwards the information in FLRs to the Pacific Fisheries
28 Management Council ("the Council"), a quasi-governmental body composed of federal

1 and state conservation officials and representatives of the fishing industry set up to
2 manage fisheries off the coast of California, Oregon, and Washington. Fish & Game
3 enters the FLR information into a computerized system accessible by the Groundfish
4 Committee of the Council. The National Marine Fisheries Service, National Oceanic and
5 Atmospheric Administration, United States Department of Commerce ("NMFS"), is the
6 agency within the executive branch of the United States that is responsible for managing
7 fisheries in federal waters and enforcing federal fisheries laws and regulations.

8 Information in FLRs is used by the Council and the NMFS to determine the amount of
9 each species of groundfish harvested, set quotas on the total amount of each species of
10 groundfish that can be removed from a fishery, and set "trip limits," which are limits on
11 the amount of each species of groundfish a particular vessel may take from a fishery over
12 a given period of time. When the Council and NMFS determine that the overall limit for
13 a species has been reached or may be reached, they may decrease the trip limit or close
14 the fishery entirely upon appropriate notice. The fishery management decisions of the
15 Council and NMFS are subject to the review and approval of the Secretary of Commerce.

16 7. Federal regulations forbid any person from taking groundfish in excess of
17 limits set under federal law, including limits set for fishing vessels. Federal regulations
18 also forbid any person from obtaining custody over or purchasing groundfish taken in
19 violation of the limits set under federal law.

20 8. NMFS uses and relies upon FLRs to enforce federal laws and regulations.
21 The filing of false FLRs impairs, impedes, and interferes with the lawful functions of the
22 NMFS in its mandate to manage groundfish species and enforce federal regulations
23 relating to groundfish. FLRs are matters within the jurisdiction of the executive branch of
24 the United States.

25 The Conspiracy

26 9. Beginning at a date unknown to the Grand Jury but not later than on or
27 about January 17, 1999, and continuing through on or about July 29, 2001, in the
28 Northern District of California and elsewhere, the defendants,

NORTH COAST FISHERIES, INC.,
MICHAEL LUCAS,
and PETER POMILIA,

and others did knowingly and intentionally conspire to: (A) defraud the United States and NMFS, an agency thereof, by impairing, impeding, and interfering with NMFS's lawful functions, and (B) commit an offense against the United States, namely, to knowingly and willfully make or use a false writing or document knowing that it contains a materially false, fictitious, or fraudulent statement or entry in a matter within the jurisdiction of the executive branch of the Government of the United States, in violation of Title 18, United States Code, Section 1001(a)(3).

Means and Manner of the Conspiracy

10. The means and manner of the conspiracy are set forth below:

a. NORTH COAST purchased offloaded groundfish from various fishing vessels at San Francisco and at other locations along the Northern California coast. NORTH COAST employees, acting as deputy weighmasters, weighed the groundfish that were offloaded. On approximately sixty occasions, NORTH COAST purchased the groundfish and created FLRs that falsely reported the species and weights of groundfish offloaded. The false FLRs were created by NORTH COAST employees by either transferring weights from one groundfish species to another on the FLR, or by not entering the weights at all.

b. NORTH COAST forwarded the false FLRs to Fish & Game. Fish & Game transmitted information from the false FLRs to the Council so that it could be used to set quotas and "trip limits." The filing of false FLRs allowed NORTH COAST to buy certain species of groundfish in excess of the limits for particular fishing vessels.

c. On some occasions, NORTH COAST filed a false FLR even though the groundfish offloaded did not exceed the limits for particular fishing vessels. On these occasions, the filing of a false FLR allowed fishermen to sell groundfish to NORTH COAST with the knowledge that the amount sold would not be counted against the species weight limits for their particular fishing vessels. Thus, NORTH COAST was in a

1 position to buy more fish from particular fishing vessels than if it had not filed false
2 FLRs.

3 d. The false FLRs filed by NORTH COAST concealed receipts and
4 purchases of groundfish which exceeded the federal limits by approximately 90,000
5 pounds.

6 OVERT ACTS

7 11. In furtherance of the conspiracy and to effect the objects thereof, the
8 defendant and their co-conspirators committed and caused the commission of the
9 following overt acts, among others, in the Northern District of California and elsewhere:

10 a. On or about July 22, 1999, PETER POMILIA falsely stated on a FLR
11 that NORTH COAST received 1,562 pounds of dover sole, 100 pounds of lingcod, 50
12 pounds of bocaccio rockfish, and 3,420 pounds of chilipepper rockfish from the fishing
13 vessel Don Pasquale.

14 b. On or about September 13, 1999, an unidentified NORTH COAST
15 employee or agent falsely stated on a FLR that NORTH COAST received 602 pounds of
16 rosefish from the fishing vessel General Pershing.

17 c. On or about September 15, 1999, an unidentified NORTH COAST
18 employee or agent falsely stated on a FLR that NORTH COAST received 106 pounds of
19 rosefish and 0 pounds of lingcod from the fishing vessel General Pershing.

20 d. On or about September 21, 1999, an unidentified NORTH COAST
21 employee or agent falsely stated on a FLR that NORTH COAST received 0 pounds of
22 bocaccio rockfish and 0 pounds of lingcod from the fishing vessel General Pershing.

23 e. On or about September 23, 1999, an unidentified NORTH COAST
24 employee or agent falsely stated on a FLR that NORTH COAST received 2,312 pounds
25 of yelloweye and 207 pounds of canary from the fishing vessel Black Hawk.

26 f. On or about October 15, 1999, R. M., a NORTH COAST employee,
27 falsely stated on a FLR that NORTH COAST received 3,850 pounds of dover sole, 5,953
28 pounds of english sole, 636 pounds of shortspine thornyhead, and 735 pounds of

1 longspine thornyhead from the fishing vessel Daydream.

2 g. On or about November 3, 1999, W. L., a NORTH COAST employee,
3 falsely stated on a FLR that NORTH COAST received 409 pounds of chilipepper
4 rockfish, 1,583 pounds of english sole, and 1,780 pounds of petrale sole lg from the
5 fishing vessel Don Pasquale.

6 h. On or about November 6, 1999, B. B., a NORTH COAST employee,
7 falsely stated on a FLR that NORTH COAST received 2,086 pounds of petrale sole lg,
8 138 pounds of petrale sole med, 112 pounds of bocaccio rockfish, 15 pounds of lingcod,
9 317 pounds of chilipepper rockfish, and 1,976 pounds of english sole from the fishing
10 vessel Don Pasquale.

11 i. On or about January 11, 2000, R. M., a NORTH COAST employee,
12 falsely stated on a FLR that NORTH COAST received 9,882 pounds of dover sole, 2,879
13 pounds of widow rockfish, 5,690 pounds of longspine thornyhead, and 1,878 pounds of
14 shortspine thornyhead from the fishing vessel Pacific Future.

15 j. On or about February 26, 2000, B. B., a NORTH COAST employee,
16 falsely stated on a FLR that NORTH COAST received 18,048 pounds of widow rockfish,
17 and 10,541 pounds of chilipepper rockfish from the fishing vessel Pacific Future.

18 k. On or about February 29, 2000, R. M., a NORTH COAST employee,
19 falsely stated on a FLR that NORTH COAST received 11,310 pounds of widow rockfish,
20 and 6,670 pounds of chilipepper rockfish from the fishing vessel Pacific Future.

21 l. On or about March 5, 2000, B. B., a NORTH COAST employee or agent,
22 falsely stated on a FLR that NORTH COAST received 5,071 pounds of widow rockfish,
23 and 10,152 pounds of chilipepper rockfish from the fishing vessel Pacific Future.

24 m. On or about April 20, 2000, R. M., a NORTH COAST employee,
25 falsely stated on a FLR that NORTH COAST received 2,380 pounds of chilipepper
26 rockfish, and 3,380 pounds of rosefish from the fishing vessel Don Pasquale.

27 n. On or about April 20, 2000, MICHAEL LUCAS authorized, drafted and
28 approved a purchase order for 5,567 pounds of "rockcod round - chiles" and 193 pounds.

1 of rosefish relating to the fish received from the fishing vessel Don Pasquale.

2 o. On or about May 4, 2000, B. B., a NORTH COAST employee, falsely
3 stated on a FLR that NORTH COAST received 500 pounds of boccacio rockfish and
4 1,884 pounds of chilipepper rockfish from the fishing vessel Don Pasquale.

5 p. On or about May 4, 2000, MICHAEL LUCAS authorized, drafted and
6 approved a purchase order for 688 pounds of "boccacio rockcod round" and 1,696 pounds
7 of "rockcod round - chiles" relating to the fish received from the fishing vessel Don
8 Pasquale.

9 q. On or about December 27, 2000, R. F., a NORTH COAST employee
10 falsely stated on a FLR that NORTH COAST received 0 pounds of shortspine thornyhead
11 from the fishing vessel Florinda.

12 r. On or about February 16, 2001, B. B., a NORTH COAST employee,
13 falsely stated on a FLR that NORTH COAST received 300 pounds of sablefish and 95
14 pounds of chilipepper rockfish from the fishing vessel David I.

15 s. On or about February 16, 2001, B. B., a NORTH COAST employee,
16 falsely stated on a FLR that NORTH COAST received 243 pounds of widow rock fish
17 from the fishing vessel Miss Marsha.

18 t. On or about July 12, 2001, W. L., a NORTH COAST employee, falsely
19 stated on a FLR that NORTH COAST received 1,009 pounds of widow rockfish and
20 1,992 pounds of chilipepper rockfish from the fishing vessel Tiger Ocean.

21 All in violation of Title 18, United States Code, Section 371.

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1 COUNT TWO: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 12. On or about November 3, 1999, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
and PETER POMILIA,

6 in a matter within the jurisdiction of the executive branch of the United States, did
7 knowingly and willfully make and use a false writing and document knowing the same to
8 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
9 NORTH COAST received 409 pounds of chilipepper rockfish, 1,583 pounds of english
10 sole, and 1,780 pounds of petrale sole lg from the fishing vessel Don Pasquale, when in
11 truth, NORTH COAST received 3409 pounds of chilipepper rockfish, 83 pounds of
12 english sole, and 280 pounds of petrale sole lg from the fishing vessel Don Pasquale.

13 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

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1 COUNT THREE: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and
2 Abetting)

3 13. On or about November 6, 1999, in the Northern District of California, the
4 defendants

5 NORTH COAST FISHERIES, INC.,
6 MICHAEL LUCAS,
and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
10 NORTH COAST received 2,086 pounds of petrale sole lg, 138 pounds of petrale sole
11 med, 112 pounds of bocaccio rockfish, 15 pounds of lingcod, 317 pounds of chilipepper
12 rockfish, and 1,976 pounds of english sole from the fishing vessel Don Pasquale, when in
13 truth, NORTH COAST received 586 pounds of petrale sole lg, 38 pounds of petrale sole
14 med, 212 pounds of bocaccio rockfish, 115 pounds of lingcod, 1817 pounds of
15 chilipepper rockfish and 476 pounds of english sole from the fishing vessel Don
16 Pasquale.

17 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

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1 COUNT FOUR: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 14. On or about January 11, 2000, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
6 and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious and fraudulent statement and entry, namely, that
10 NORTH COAST received 9,862 pounds of dover sole, 2,879 pounds of widow rockfish,
11 5,690 pounds of longspine thornyhead, and 1,878 pounds of shortspine thornyhead from
12 the fishing vessel Pacific Future, when in truth, NORTH COAST received 7,821 pounds
13 of dover sole, 4,940 pounds of widow rockfish, 4,340 pounds of longspine thornyhead and
14 3,328 pounds of shortspine thornyhead from the fishing vessel Pacific Future.

15 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

1 COUNT FIVE: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 15. On or about February 26, 2000, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
6 and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
10 NORTH COAST received 18,048 pounds of widow rockfish and 10,541 pounds of
11 chilipepper rockfish from the fishing vessel Pacific Future, when in truth, NORTH
12 COAST received 28,048 pounds of widow rockfish and 541 pounds of chilipepper
13 rockfish from the fishing vessel Pacific Future.

14 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

1 COUNT SIX: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 16. On or about February 29, 2000, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
6 and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
10 NORTH COAST received 11,310 pounds of widow rockfish and 6,670 pounds of
11 chilipepper rockfish from the fishing vessel Pacific Future, when in truth, NORTH
12 COAST received 15,752 pounds of widow rockfish and 2,228 pounds of chilipepper
13 rockfish from the fishing vessel Pacific Future.

14 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

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1 COUNT SEVEN: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 17. On or about April 20, 2000, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
and PETER POMILIA,

6 in a matter within the jurisdiction of the executive branch of the United States, did
7 knowingly and willfully make and use a false writing and document knowing the same to
8 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
9 NORTH COAST received 2,380 pounds of chilipepper rockfish and 3,380 pounds of
10 rosefish from the fishing vessel Don Pasquale, when in truth, NORTH COAST received
11 5,567 pounds of chilipepper rockfish and 193 pounds of rosefish from the fishing vessel
12 Don Pasquale.

13 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

1 COUNT EIGHT: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 18. On or about February 16, 2001, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
6 and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
10 NORTH COAST received 243 pounds of widow rockfish from the fishing vessel Miss
11 Marsha, when in truth, NORTH COAST received 589 pounds of widow rockfish from the
12 fishing vessel Miss Marsha.

13 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

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1 COUNT NINE: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 19. On or about February 16, 2001, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
6 and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
10 NORTH COAST received 300 pounds of sablefish med, 0 pounds of sablefish sm and 95
11 pounds of chilipepper rockfish from the fishing vessel David I, when in truth, NORTH
12 COAST received 395 pounds of sablefish and 0 pounds of chilipepper rockfish from the
13 fishing vessel David I.

14 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

1 COUNT TEN: (18 U.S.C. §§ 1001(a)(3) & 2 – False Writing and Aiding and Abetting)

2 20. On or about July 12, 2001, in the Northern District of California, the
3 defendants

4 NORTH COAST FISHERIES, INC.,
5 MICHAEL LUCAS,
6 and PETER POMILIA,

7 in a matter within the jurisdiction of the executive branch of the United States, did
8 knowingly and willfully make and use a false writing and document knowing the same to
9 contain a materially false, fictitious, and fraudulent statement and entry, namely, that
10 NORTH COAST received 1,009 pounds of widow rockfish and 1,992 pounds of
11 chilipepper rockfish from the fishing vessel Tiger Ocean, when in truth, NORTH COAST
12 received 291 pounds of widow rockfish and 2,718 pounds of chilipepper rockfish from the
13 fishing vessel Tiger Ocean.

14 All in violation of Title 18, United States Code, Sections 1001(a)(3) & 2.

SENTENCING ALLEGATIONS

21. With respect to all counts with which the defendants are charged,
- a. the offenses were committed for pecuniary gain;
 - b. the market value of the fish involved exceeded \$1,000,000; and
 - c. the pecuniary gain to NORTH COAST from the offense exceeded \$230,000.

22. With respect to all counts with which defendant LUCAS is charged, the defendant LUCAS was a leader and organizer of criminal activity that involved five or more participants and was otherwise extensive.


23. With respect to all counts with which defendant POMILIA is charged, the offense, the defendant POMILIA was a supervisor and manager of criminal activity that involved five or more participants and was otherwise extensive.


DATED:

A TRUE BILL.

FOREPERSON _____

KEVIN V. RYAN
United States Attorney


EUMIL L. CHOI
Acting Chief, Criminal Division

(Approved as to form: )

AUSAs Leigh and Geis